



March 28, 2003

ENGROSSED SENATE BILL No. 533

DIGEST OF SB 533 (Updated March 26, 2003 2:23 PM - DI 69)

Citations Affected: IC 13-11; IC 13-18.

Synopsis: Confined feeding operations. Establishes National Pollutant Discharge Elimination System permit procedures for concentrated animal feeding operations.

Effective: Upon passage.

**Jackman, Lewis, Landske,
Hershman, Waterman, Drozda**

(HOUSE SPONSORS — BOTTORFF, WOLKINS, GOODIN, FRIEND)

January 23, 2003, read first time and referred to Committee on Environmental Affairs.
February 18, 2003, amended, reported favorably — Do Pass.
February 24, 2003, read second time, ordered engrossed.
February 25, 2003, engrossed. Read third time, passed. Yeas 48, nays 1.

HOUSE ACTION

March 13, 2003, read first time and referred to Committee on Environmental Affairs.
March 27, 2003, amended, reported — Do Pass.

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ES 533—LS 7902/DI 52+



March 28, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

ENGROSSED SENATE BILL No. 533

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 13-11-2-38.3 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE UPON PASSAGE]: **Sec. 38.3. "Concentrated animal**
4 **feeding operation"** or "CAFO", for purposes of IC 13-18-10,
5 IC 13-18-19, and IC 13-18-20, has the meaning set forth in 40 CFR
6 **122.23.**
- 7 SECTION 2. IC 13-18-19-3 IS ADDED TO THE INDIANA CODE
8 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
9 UPON PASSAGE]: **Sec. 3. (a) A person that proposes to:**
- 10 **(1) construct a concentrated animal feeding operation;**
11 **(2) modify an existing confined feeding operation such that it**
12 **becomes a CAFO; or**
13 **(3) modify an existing CAFO;**
14 **must construct or modify the operation in accordance with rules**
15 **for CAFO NPDES permits adopted by the board.**
- 16 **(b) Obtaining an NPDES permit for a CAFO meets the**
17 **requirements of IC 13-18-10-1 and 327 IAC 16 to obtain an**

ES 533—LS 7902/DI 52+



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approval.

(c) A person that:

(1) is required; or

(2) chooses;

to obtain an NPDES permit under this section may obtain an NPDES general permit by filing a notice of intent with the department, unless that person is required by the commissioner to obtain an individual NPDES permit.

(d) A notice of intent filed under subsection (c) must certify that the CAFO follows or will follow rules for CAFO NPDES permits adopted by the board.

(e) Subject to subsection (f), a person remains subject to an NPDES general permit for a CAFO until the earliest of:

(1) the date on which the person discontinues and closes the operation in accordance with 327 IAC 16-12; or

(2) the date five (5) years after the date on which the notice of intent was filed under subsection (c).

(f) A person remains subject to an NPDES general permit for a CAFO after the date indicated in subsection (e) if, before that date, the person files another notice of intent with the department under rules adopted by the board for CAFO NPDES general permits. A notice of intent filed under this subsection must comply with subsection (d).

(g) If a discharge from a CAFO to waters occurs during the five (5) years that immediately precede the date of filing of the notice of intent under subsection (c) or (f), the department may determine that the person that files the notice of intent must apply for an individual NPDES permit for the operation.

(h) If a person applies for and receives an individual NPDES permit under this section and:

(1) no discharge to waters from the CAFO occurs; or

(2) no enforcement action is taken based on:

(A) a violation that represents; or

(B) a series of violations that represent;

a threat to the environment;

during the five (5) years immediately following the issuance of the individual NPDES permit, the person may become subject to an NPDES general permit for the operation by filing a notice of intent under subsection (c).

(i) A determination by the commissioner that an individual NPDES permit is required is appealable under IC 4-21.5.

SECTION 3. IC 13-18-20-11.5 IS ADDED TO THE INDIANA



CODE AS A NEW SECTION TO READ AS FOLLOWS
 [EFFECTIVE UPON PASSAGE]: **Sec. 11.5. For NPDES general permits under IC 13-18-19-3 for concentrated animal feeding operations, a fee of two hundred fifty dollars (\$250) shall be submitted with a notice of intent.**

SECTION 4. IC 13-18-20-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) **Except as provided in subsection (c),** when a person files an application with the department concerning a NPDES permit, including:

- (1) an application for an initial permit;
- (2) the renewal of a permit;
- (3) the modification of a permit; or
- (4) a variance from a permit;

the person must remit an application fee of fifty dollars (\$50) to the department.

(b) If a person does not remit an application fee to the department, the department shall deny the person's application.

(c) When a person files an application with the department concerning an individual NPDES permit under IC 13-18-19-3, including:

- (1) an application for an initial permit;**
- (2) the renewal of a permit;**
- (3) the modification of a permit; or**
- (4) a variance from a permit;**

the person must remit an application fee of two hundred fifty dollars (\$250) to the department.

SECTION 5. An emergency is declared for this act.

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SENATE MOTION

Mr. President: I move that Senator Lewis be added as second author of Senate Bill 533.

JACKMAN

SENATE MOTION

Mr. President: I move that Senators Landske and Hershman be added as coauthors of Senate Bill 533.

JACKMAN

SENATE MOTION

Mr. President: I move that Senator Waterman be added as coauthor of Senate Bill 533.

JACKMAN

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COMMITTEE REPORT

Mr. President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 533, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 4, delete "operation"," and insert **"operation" or "CAFO",**".

Page 1, delete lines 6 through 17.

Page 2, delete lines 1 through 4.

Page 2, line 7, delete "may become subject to an" and insert **"that proposes to:**

- (1) construct a concentrated animal feeding operation;**
- (2) modify an existing confined feeding operation such that it becomes a CAFO; or**
- (3) modify an existing CAFO;**

must construct or modify the operation in accordance with rules for CAFO NPDES permits adopted by the board.

(b) Obtaining an NPDES permit for a CAFO meets the requirements of IC 13-18-10-1 and 327 IAC 16 to obtain an approval.

(c) A person that:

- (1) is required; or**
- (2) chooses;**

to obtain an NPDES permit under this section may obtain an NPDES general permit by filing a notice of intent with the department, unless that person is required by the commissioner to obtain an individual NPDES permit.

(d) A notice of intent filed under subsection (c) must certify that the CAFO follows or will follow rules for CAFO NPDES permits adopted by the board.

(e) Subject to subsection (f), a person remains subject to an NPDES general permit for a CAFO until the earliest of:

- (1) the date on which the person discontinues and closes the operation in accordance with 327 IAC 16-12; or**
- (2) the date five (5) years after the date on which the notice of intent was filed under subsection (c).**

(f) A person remains subject to an NPDES general permit for a CAFO after the date indicated in subsection (e) if, before that date, the person files another notice of intent with the department under rules adopted by the board for CAFO NPDES general permits. A notice of intent filed under this subsection must comply with subsection (d).



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(g) If a discharge from a CAFO to waters occurs during the five (5) years that immediately precede the date of filing of the notice of intent under subsection (c) or (f), the department may determine that the person that files the notice of intent must apply for an individual NPDES permit for the operation.

(h) If a person applies for and receives an individual NPDES permit under this section and:

(1) no discharge to waters from the CAFO occurs; or

(2) no enforcement action is taken based on:

(A) a violation that represents; or

(B) a series of violations that represent;

a threat to the environment;

during the five (5) years immediately following the issuance of the individual NPDES permit, the person may become subject to an NPDES general permit for the operation by filing a notice of intent under subsection (c).

(i) A determination by the commissioner that an individual NPDES permit is required is appealable under IC 4-21.5."

Page 2, delete lines 8 through 42.

Page 3, delete lines 1 through 20.

Page 3, line 40, after "an" insert "**individual**".

Page 3, line 40, delete "IC 13-18-19-3(e)," and insert "**IC 13-18-19-3,**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 533 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 7, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred Senate Bill 533, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 4, delete "one" and insert "**two**".

Page 3, line 4, after "hundred" insert "**fifty**".

Page 3, line 4, delete "(\$100)" and insert "**(\$250)**".

Page 3, line 25, delete "one" and insert "**two**".

Page 3, line 25, after "hundred" insert "**fifty**".

Page 3, line 26, delete "(\$100)" and insert "**(\$250)**".

and when so amended that said bill do pass.

(Reference is to SB 533 as printed February 19, 2003.)

BOTTORFF, Chair

Committee Vote: yeas 11, nays 2.

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